

REMARKS/ARGUMENTS

This communication is in response to the Non-Final Office Action mailed June 5, 2007. Claims 1, 12 and 22 have been amended. Claims 23 and 24 have been canceled, without prejudice. No new matter has been added. Claims 1-22 and 25-27 remain pending in this application with claims 1, 12 and 22 being the only independent claims. Reconsideration in view of the amendments to the claims and arguments presented below is respectfully requested.

Claims 1-9, 11-19 and 21-27 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,154,332 (Williams et al.). Claims 10 and 20 are rejected under 35 U.S.C. §103(a) as obvious over Williams et al.

Applicant respectfully traverses the outstanding rejections for the reasons described in detail below.

Independent Claim 1

Claim 1 is distinguishable over Williams et al. in that it has been amended to state that the main compartment of the backpack is formed from "plural panels including at least a back panel with two shoulder straps each attached at both ends to the back panel." (emphasis added) In contrast, Williams et al. discloses an enclosure (16) having two handle straps (18), wherein the ends of the first handle strap are attached to panel (26) whereas the ends of the second handle strap are attached to panel (28), rather than to a common back panel, as claimed. This is not surprising since the enclosure (16) in Williams et al. is not intended to be worn as a backpack but instead to be used as a duffle or shoulder bag, hence the arrangement of the straps (18).

Furthermore, claim 1 states that the backpack includes "a single substantially linear releasable securing device for accessing the main compartment of the backpack." (emphasis added) Williams et al., on the other hand, discloses (Figures 3, 6, 7, 8) an enclosure (16) having multiple zippers 14a, 14b, 14c for accessing the main compartment of the enclosure. Alternatively, a single closure device having an inverted U orientation (Col. 5, ll. 25-27) (non-linear orientation) is disclosed. In all of the disclosed embodiments as well as the claims, whether employing an arrangement of plural zippers or in the case of a single inverted U oriented non-linear zipper, the principle operation requires that the zipper(s) define a flap (42) that may be

rolled opened or closed in panel (28). The claimed "single substantially linear releasable securing device" therefore teaches away from such a flap requiring a non-linear oriented single zipper and thus the principle of operation. Applicant asserts that any attempt by the Examiner to modify Williams et al. to have a single substantially linear zipper for accessing the main compartment, as claimed, would teach away from its intended use. "If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." MPEP 2143.01 (*In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)). The flap (42) in Williams et al. is necessary for the disclosed intended purpose or principle of operation of using enclosure (16) to enclose the backpack (58) while it is being worn by the user. This intended use or operation would not be possible with a single substantially linear zipper since (as shown in Figure 4) such configuration would not form a flap and therefore would not permit the shoulder straps (52) of the backpack (58) from being accessible through the enclosure (16). Accordingly, any attempt to render the present claimed invention unpatentable by modifying Williams et al. to have a single substantially linear zipper for accessing the main compartment would fail to establish a *prima facie* case of obviousness.

Independent Claim 12

Independent claim 12 is similar to claim 1 except that the term "zipper chain" has been substituted for the term "releasable securing device". Accordingly, Applicant submits that claims 12 is patentable over the prior art of record for similar reasons described above with respect to claim 1.

Independent Claim 22

Independent claim 22 is similar to that of claim 1 in that it contains the limitation "a single substantially linear releasable securing device for accessing the main compartment of the backpack." (emphasis added) Therefore, Applicant submits that claims 22 is patentable over the prior art of record for similar reasons described above with respect to claim 1 and this common limitation.

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CONDITIONAL PETITION FOR EXTENSION OF TIME

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 503462.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 503462.

Respectfully submitted,

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By 

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